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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 18TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR. JUSTICE V.GOPALA GOWDA

WRIT PETITION NO.292/1994

BETWEEN:-

Hameedkhan Nannekhan Muradkhan,
since deceased by his legal representative-
Khaja Najamuddinkhan S/o Hameedkhan
Muradkhan, Major, agriculturist,
R/o.Bagalkot, Dist-Bijapur.

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..PETITIONER

(By Sri: S.G.Kulkarni, Advocate)

AND:-

1. The State of Karnataka,
by its Secretary to Revenue Department,
Vidhana soudha, Bangalore-1
2. The Land Tribunal, by its Chairman,
Bagalkot, Dist-Bijapur.
3. Annaji Venkatesh Desai, Major,
R/o-Gaddankeri, Taluk-Bagalkot,
Dist-Bijapur.
4. Gurunath Venkatesh Desai,
Major, R/o Gaddanakeri,
Taluk Bagalkot,
Dist:Bijapur.

..RESPONDENTS

(By Smt.Bharathi Nagesh, AGA, for R1 & R2)

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This W.P. is filed to consider the application and appeal No.LRA.TR 163/87 filed before the LRAA Balkot, Bijapur as W.P. in view of amendment of Section 17 of the Land Reforms Act. and etc.

This W.P. coming on for hearing, this day, the Court made the following:-

O R D E R

The petitioner is a counter claimant. His father filed Form No.7 claiming occupancy rights in respect of the lands bearing Sy.No.109/26 measuring 6 acres of Gaddanakeri village of Bagalkot Taluk, Bijapur District. In respect of the very same land, number of other claimants filed applications before the Tribunal for grant of occupancy ~~rights~~^{rights} in their favour. The Tribunal proceeded to conduct and enquiry without impleading the representative of the petitioner's father who was the applicant before it. The petitioner's father died on 5.10.1979.

2. The second respondent-Land Tribunal has not conducted an enquiry under Sec.48 A of Karnataka Land Reforms Act, 1961 read with Rule 17 of the

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Karnataka Land Reforms Rules 1974 and Sec.34 of the Karnataka Land Revenue Act, 1964. The Land Tribunal has recorded joint statement which is totally impermissible in law. Apart from this, there is serious infirmity in the impugned order ^{M as the same M} ~~to say that it~~ is not a speaking order. No reasons are assigned for rejection of the application of the petitioner's father. It is also stated that the pendency of the application before second respondent-Tribunal was not within the knowledge of the petitioner. On this sole ground the impugned order is liable to be quashed. The second respondent-Tribunal has examined only the joint statement recorded by it^M which is not permissible in law. Therefore, the impugned order is vitiated in law, hence the same is wholly unsustainable in law.

3. For the reasons stated above, the writ petition is allowed. Rule made absolute. The matter is remitted back to the second respondent

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Tribunal for fresh consideration after affording an opportunity to the claimants and respondents 3 and 4 and dispose of the same in accordance with law within six months from the date of receipt of this order.

4. Smt. Bharathi Nagesh, learned Addl. Government Advocate is permitted to file memo of appearance within four weeks from today.

Sd/-
JUDGE

Sk/

